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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
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12 TYLER KAI BRYANT,

13 Plaintiffs,

14 vs.

15 DUSTIN HEERSCHE; BRADLEY
16 BORDON; ERIC WIATT; AND
JODY DESJARDINS,

17 Defendants.
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Case No. 2:23-cv-03434 JLS (PVCx)

Honorable Josephine L. Staton

**DEFENDANTS' ANSWER TO
PLAINTIFF'S FIRST AMENDED
COMPLAINT FOR DAMAGES;
DEMAND FOR JURY TRIAL**

22
23 COMES NOW Defendants DUSTIN HEERSCHE, BRADLEY BORDON,
24 ERIC WIATT, and JODY DESJARDINS ("Defendants") and answering Plaintiff
25 Tyler Kai Bryant's ("Plaintiff") First Amended Complaint for Damages
26 ("Complaint") on file herein, for themselves and for no others, admit, deny, and
27 allege as follows:
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1 1. Answering Paragraph 1 of the Complaint, Defendants admit that
2 under the facts alleged, the Court has subject matter jurisdiction over Plaintiff's
3 federal law claims at this time.

4 2. Answering Paragraph 2 of the Complaint, Defendants admit that
5 venue is proper under the facts alleged.

6 3. Answering Paragraphs 3, 9, 10, 11, 15, 17-25, 27-29, 31, 32, 34-37,
7 39, 40, 43-52, 55-61, 65-73, and the Prayer for Relief of the Complaint,
8 Defendants deny generally and specifically each and every allegation contained
9 therein, and further deny that Plaintiff is entitled to an award of damages, or any
10 other relief as a result of any act or omission by these Defendants.

11 4. Answering Paragraphs 4, 13, 14, 16, 26, 30, 33, 38, and 41 of the
12 Complaint, Defendants do not have sufficient information or belief to enable
13 them to admit or deny the allegations of these Paragraphs, and on that ground,
14 deny each and every allegation contained therein.

15 5. Answering Paragraph 5 of the Complaint, Defendants admit that
16 Dustin Heersche is a sworn Ventura County Senior Deputy Sheriff, and that he
17 was acting under color of law and in the course and scope of his employment at
18 all times relevant to the Complaint. Answering the remaining portions of
19 Paragraph 5, Defendants deny each and every other allegation contained therein.

20 6. Answering Paragraph 6 of the Complaint, Defendants admit that
21 Bradley Bordon is a sworn Ventura County Deputy Sheriff, and that he was
22 acting under color of law and in the course and scope of his employment at all
23 times relevant to the Complaint. Answering the remaining portions of Paragraph
24 6, Defendants deny each and every other allegation contained therein.

25 7. Answering Paragraph 7 of the Complaint, Defendants admit that Eric
26 Wiatt is a sworn Ventura County Deputy Sheriff, and that he was acting under
27 color of law and in the course and scope of his employment at all times relevant
28

1 to the Complaint. Answering the remaining portions of Paragraph 7, Defendants
2 deny each and every other allegation contained therein.

3 8. Answering Paragraph 8 of the Complaint, Defendants admit that
4 Jody Desjardins is a sworn Sergeant with the Ventura County Sheriff's Office,
5 and that she was acting under color of law and in the course and scope of her
6 employment at all times relevant to the Complaint. Answering the remaining
7 portions of Paragraph 8, Defendants deny each and every other allegation
8 contained therein.

9 9. Answering Paragraph 12 of the Complaint, Defendants incorporate
10 by reference their response to Paragraphs 1-11 as set forth herein.

11 10. Answering Paragraph 42 of the Complaint, Defendants incorporate
12 by reference their response to Paragraphs 1-41 as set forth herein.

13 11. Answering Paragraph 53 of the Complaint, Defendants incorporate
14 by reference their response to Paragraphs 1-52 as set forth herein.

15 12. Answering Paragraph 54 of the Complaint, this Paragraph states
16 legal conclusions to which no response is required. As for the remaining portions
17 of the Paragraph, Defendants deny generally and specifically each and every
18 allegation contained therein.

19 13. Answering Paragraph 62 of the Complaint, Defendants incorporate
20 by reference their response to Paragraphs 1-61 as set forth herein.

21 14. Answering Paragraphs 63 and 64 of the Complaint, these Paragraphs
22 state legal conclusions to which no response is required.

23 **AFFIRMATIVE DEFENSES**

24 **FIRST AFFIRMATIVE DEFENSE**

25 15. Defendants are entitled to the benefit and protection of qualified
26 immunity, in that there was no constitutional violation, no violation of any clearly
27 established constitutional or statutory right, and that a reasonable official in their
28 positions could have believed their conduct was lawful.

1 **SECOND AFFIRMATIVE DEFENSE**

2 16. That Plaintiff's Complaint does not state facts sufficient to constitute
3 a cause of action against these Defendants under 42 U.S.C. § 1983, because
4 simple negligence pursuant to the United States Supreme Court decision of
5 *Parratt v. Taylor*, 451 U.S. 527, 101 S.Ct. 1908, 68 L.Ed.2d 420 (1981), is not a
6 federal civil rights violation.

7 **THIRD AFFIRMATIVE DEFENSE**

8 17. Plaintiff's Complaint fails to state a cause of action against these
9 answering Defendants.

10 **FOURTH AFFIRMATIVE DEFENSE**

11 18. Under the Civil Rights Act, where intent is an element of the claim,
12 the facts must be alleged in the Complaint with specificity.

13 **FIFTH AFFIRMATIVE DEFENSE**

14 19. Neither a public entity nor a public employee is liable for their act or
15 omission, exercising due care, in the execution or enforcement of any law.

16 **SIXTH AFFIRMATIVE DEFENSE**

17 20. Neither a public entity nor a public employee is liable for any injury
18 caused by the act or omission of another person.

19 **SEVENTH AFFIRMATIVE DEFENSE**

20 21. Neither a public entity nor a public employee is liable for any injury
21 resulting from their act or omission where the act or omission was the result of
22 the exercise of the discretion vested in them, whether or not such discretion is
23 abused.

24 **EIGHTH AFFIRMATIVE DEFENSE**

25 22. Neither a public entity nor a public employee acting in good faith,
26 without malice, and under the apparent authority of an enactment that is
27 unconstitutional, invalid or inapplicable, is liable for any injury caused thereby,
28 except to the extent that they would have been liable had the enactment been

1 constitutional, valid and applicable.

2 **NINTH AFFIRMATIVE DEFENSE**

3 23. Neither a public entity nor a public employee is liable for failure to
4 establish a police department or otherwise provide police protection service or, if
5 public protection service is provided, for failure to provide sufficient police
6 protection service.

7 **TENTH AFFIRMATIVE DEFENSE**

8 24. Neither a public entity nor a public employee is liable for an injury
9 caused by the adoption of or failure to adopt an enactment or by the failure to
10 enforce an enactment.

11 **ELEVENTH AFFIRMATIVE DEFENSE**

12 25. Defendants are entitled to quasi-judicial immunity.

13 **TWELFTH AFFIRMATIVE DEFENSE**

14 26. Any injury to Plaintiff was due to and caused by the negligence and
15 omissions of the Plaintiff to care for herself, which carelessness and negligence
16 and omissions were the proximate cause of the damage, if any, to Plaintiff.

17 **THIRTEENTH AFFIRMATIVE DEFENSE**

18 27. The damages, if any, should be in direct proportion to the fault of
19 Defendants, if any, as provided by Civil Code §§ 1431 to 1431.5.

20 **FOURTEENTH AFFIRMATIVE DEFENSE**

21 28. To the extent that Plaintiff suffered any detriment, such detriment
22 was caused or contributed to by Plaintiff's negligence and damages if any, should
23 be reduced in direct proportion to Plaintiff's fault.

24 **FIFTEENTH AFFIRMATIVE DEFENSE**

25 29. The injuries and damages alleged by Plaintiff, if any, were
26 proximately caused by the negligence, conduct and liability of other persons or
27 entities, and Defendants request that an allocation of such negligence, conduct
28 and liability be made among such other persons or entities, and that, if any

1 liability is found on the part of Defendants, judgment against Defendants be only
2 in an amount which is proportionate to the extent and percentage by which
3 Defendants' acts or omissions contributed to Plaintiff's injuries or damages, if at
4 all.

5 **SIXTEENTH AFFIRMATIVE DEFENSE**

6 30. The negligence of a third-party or parties was a superseding,
7 intervening cause of Plaintiff's injuries.

8 **SEVENTEENTH AFFIRMATIVE DEFENSE**

9 31. Defendants are not liable pursuant to the doctrine of assumption of
10 risk.

11 **EIGHTEENTH AFFIRMATIVE DEFENSE**

12 32. Plaintiff's claims are barred by the doctrine of unclean hands.

13 **NINETEENTH AFFIRMATIVE DEFENSE**

14 33. Plaintiff's claims are barred by the doctrine of laches.

15 **TWENTIETH AFFIRMATIVE DEFENSE**

16 34. Plaintiff has failed to mitigate her damages.

17 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

18 35. Reasonable suspicion existed for the contact and detention of
19 Plaintiff.

20 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

21 36. That any injury or damage suffered by Plaintiff was caused solely by
22 reason of Plaintiff's wrongful acts and not by reason of any unlawful acts or
23 omissions of Defendants.

24 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

25 37. Plaintiff has failed to join all necessary parties to this action.

26 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

27 38. Defendants are not legally responsible for the acts and/or omissions
28 of the DOE defendants.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

39. Probable cause existed for the arrest of the Plaintiff, and Plaintiff's detention was lawful.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

40. Plaintiff's Complaint fails to state a cause of action against Defendants for punitive damages in that punitive damages violate due process of law rights.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

41. Plaintiff's refusal to follow medical recommendations and prescribed care is a superseding cause of any alleged injuries and Plaintiff's claims are barred by the doctrine of waiver and release.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

42. Defendants did not exhibit subjective deliberate indifference, the requisite federal culpability standard, and therefore cannot be liable to Plaintiff.

TWENTY-NINTH AFFIRMATIVE DEFENSE

43. The force, if any, used on Plaintiff was reasonable under the circumstances and any injury or damages allegedly suffered by Plaintiff were due to and caused by reason of Plaintiff's unlawful acts and conduct.

THIRTIETH AFFIRMATIVE DEFENSE

44. To the extent that any force was used in detaining Plaintiff and arresting Plaintiff, it was privileged as necessary to affect the arrest, to prevent escape, or to overcome resistance.

THIRTY-FIRST AFFIRMATIVE DEFENSE

45. Plaintiff knew or should have known that she was being detained by a peace officer and had the duty to refrain from resisting the lawful detention.

THIRTY-SECOND AFFIRMATIVE DEFENSE

46. The actions of Defendants were in all respects reasonable, proper and legal.

THIRTY-THIRD AFFIRMATIVE DEFENSE

47. Plaintiff was lawfully detained rather than arrested.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

48. The force, if any, used on Plaintiff was reasonable under the circumstances and any injury or damages allegedly suffered by Plaintiff were due to and caused by reason of Plaintiff's acts and conduct.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

49. Defendants are protected by the application of qualified immunity, in that there was no constitutional right, it was not violated, and it was not clearly established under the circumstances at issue, as explicated by *Ryburn v. Huff*, 132 S.Ct. 987 (2012), *Plumhoff v. Rickard*, 134 S.Ct. 2012 (2014), *Brosseau v. Haugen*, 543 U.S. 194 (2004), *Heien v. North Carolina*, 135 S.Ct. 530 (2014), and *City and County of San Francisco v. Sheehan*, 135 S.Ct. 1765 (2015).

THIRTY-SIXTH AFFIRMATIVE DEFENSE

50. Plaintiff's claims are precluded by the doctrines of res judicata and collateral estoppel.

THIRTY-SEVENTH AFFIRMATIVE DEFENSE

51. Because the Complaint is couched in conclusory terms, the answering Defendants cannot fully anticipate all the affirmative defenses that may be applicable to the within action. Accordingly, the right to assert additional affirmative defenses, if and to the extent that such affirmative defenses are applicable, is hereby reserved.

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DEMAND FOR JURY TRIAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendants Dustin Heersche, Bradley Bordon, Eric Wiatt, and Jody Desjardins demand a trial by jury pursuant to Federal Rules of Civil Procedure, Rule 38(b) and Local Rule 38-1.

Dated: November 13, 2023

LAWRENCE BEACH ALLEN & CHOI, PC

By /s/ Rocco Zambito, Jr.
Rocco Zambito, Jr.
Attorneys for Defendants
Dustin Heersche, Bradley Bordon,
Eric Wiatt, and Jody Desjardins